

Notice of Allowability

Application No.

10/008,264

Applicant(s)

GLIMCHER ET AL.

Examiner

Amy E. Juedes, Ph.D.

Art Unit

1644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 8/27/07.
2. ☒ The allowed claim(s) is/are 1, 2, 6, 12, 50, 51, 53-55, 57, 58, 61-63, 65, 84, 87, 88 and 90-105.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☒ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____


11/5/07
G.R. EWOLDT, PH.D.
PRIMARY EXAMINER

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DETAILED ACTION

1. Applicant's amendment and remarks, filed 8/27/07, are acknowledged.

Claims 64, 66-75, 78-83, and 106-112 have been cancelled. Claims 1-2, 8, 50-51, 55, 58, 61-62, 84, 87-88, 91, 93-95, 100, and 103-104 have been amended. Claims 1-2, 6, 8-12, 50-51, 53-55, 57-58, 61-63, 65, 84, 87-88, and 90-105 are pending.

Claims 1-2, 6, 87-12, 50-51, 53-55, 57-58, 61-63, 65, 84 are allowable. The restriction requirement between SEQ ID NO: 1 (human T-bet) and SEQ ID NO: 3 (mouse T-bet), as set forth in the Office action mailed on 1/24/05, has been reconsidered in view of the allowability of claims to the elected invention pursuant to MPEP § 821.04(a). **The restriction requirement is hereby withdrawn as to any claim that requires all the limitations of an allowable claim.** Claims 87-88, and 90-105, directed to nucleic acids encoding mouse T-bet are no longer withdrawn from consideration.

In view of the above noted withdrawal of the restriction requirement, applicant is advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application.

Once a restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. See *In re Ziegler*, 443 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

2. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

3. Authorization for this examiner's amendment was given in a telephone interview with Megan Williams on 10/30/07.

IN THE CLAIMS:

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4. In claim 1, line 3, "SEQ ID NO:2" has been replaced with "said nucleic acid molecule".
5. In claim 10, line 1, "A host cell" has been replaced with "An isolated host cell".
6. In claim 51, lines 1-2, "the complement" has been replaced with "a full length complement", and in lines 2-3, "over the full length of SEQ ID NO:1" has been deleted.
7. In claim 55, lines 2-3, "comprises a T-box domain, or a nucleic acid molecule" has been replaced with "encodes a T-box domain, or an isolated nucleic acid molecule"
8. In claim 58, line 3, "comprises a T-box domain, or a nucleic acid molecule" has been replaced with "encodes a T-box domain, or an isolated nucleic acid molecule"
9. In claim 87, line 3, "SEQ ID NO:4" has been replaced with "said nucleic acid molecule".
10. In claim 91, line 2, "the complement" has been replaced with "a full length complement", and in lines 2-3, "over the full length of SEQ ID NO:3" has been deleted.
11. In claim 93, line 3, "comprises a T-box domain, or a nucleic acid molecule" has been replaced with "encodes a T-box domain, or an isolated nucleic acid molecule"
12. In claim 94, lines 2-3, "comprises a T-box domain, or a nucleic acid molecule" has been replaced with "encodes a T-box domain, or an isolated nucleic acid molecule"
13. In claim 97, line 1, "A host cell" has been replaced with "An isolated host cell".
14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amy E. Juedes, Ph.D. whose telephone number is 571-272-4471. The examiner can normally be reached on 8am - 5pm, Monday through Friday.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Chan can be

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reached on 571-272-0841. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Patent Examiner
Technology Center 1600


11/5/07
G.R. EWOLDT, PH.D.
PRIMARY EXAMINER